IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 378,948, published in the Official Gazette on December 20, 1983 at TM 323

UNIVERSAL CITY STUDIOS, INC., Opposer, -against- NINTENDO OF AMERICA, INC., Applicant.	Opposition No. 68,799

PAT. & T.M. OFFICE
MAY 31 1984
TRADEMARK TRIAL AND APPEAL BOARD

OPPOSER'S RESPONSE TO APPLICANT'S REQUEST FOR SUSPENSION OF PROCEEDINGS

Universal City Studios, Inc. ("Universal"), opposer herein, by its attorneys Townley & Updike, submits this response to the request by applicant Nintendo of America, Inc. ("Nintendo"), pursuant to Trademark Rule 2.117, for the suspension of proceedings regarding the application to register the mark DONKEY KONG JUNIOR, Serial No. 378,948.

Universal does not oppose Nintendo's request for a suspension of proceedings due to the pendency of a civil action between opposer and applicant entitled Universal City Studios, Inc. v. Nintendo Co., Ltd. and Nintendo of America, Inc.,

82 Civ. 4259 (RWS). As set forth in Nintendo's Request for Suspension of Proceedings, the United States District Court for the Southern District of New York granted Nintendo's motion for summary judgment dismissing Universal's Complaint on December 22, 1983, and Universal has appealed the district court's decision to the United States Court of Appeals for the Second Circuit, Universal City Studios, Inc. v. Nintendo of America, Inc., No. 84-7095. (See Exhibits A and B to this response, respectively, Universal's Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment and Universal's Brief of Plaintiff-Appellant).

Universal agrees that the issues presented in the federal court action will either be dispositive of, or have some bearing on, Nintendo's application for registration of the trademark DONKEY KONG JUNIOR, Serial No. 378,948, and that the opposition proceedings pending herein should be suspended until termination of the federal court action.

Dated: May 24, 1984

Respectfully submitted,

TOWNLEY & UPDIKE

By: Douglas C. Fairhurst

Douglas C. Fairhurst
405 Lexington Avenue
New York, New York 10174
(212) 682-4567

Attorneys for Opposer

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DOROTHY M. MURPHY, being duly sworn, deposes and says deponent is not a party to this action, is over 18 years of age and resides at 2934 Valentine Avenue, Bronx, New York. That on the 25th day of May 1984 Opposer's Response to Applicant's Request For Suspension of Proceedings was served upon the following:

Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10005

at the above address designated for that purpose by said attorney by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Dorothy M. Murphy

Sworn to before me this
25th Day of May, 1984.

Sandra Edelman

SANDRA EDELMAN
Notary Public, State of New York
No. 31-4767632
Qualified in New York County
Commission Expires March 30, 1986

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DOROTHY M. MURPHY, being duly sworn, deposes and says deponent is not a party to this action, is over 18 years of age and resides at 2934 Valentine Avenue, Bronx, New York. That on the 25th day of May 1984, Opposer's Response to Applicant's Request For Suspension of Proceedings was served upon the following:

Larry A. Jackson, Esq.
Christensen, O'Connor,
Johnson & Kindness
2001 Sixth Avenue
Seattle, WA. 98121

at the above address designated for that purpose by said attorney by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Dorothy M. Murphy
Dorothy M. Murphy

Sworn to before me this
25th day of May, 1984.

Sandra Edelman

SANDRA EDELMAN
Notary Public, State of New York
No. 31-4707632
Qualified in New York County
Commission Expires March 30, 1986

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to:

Commissioner of Patents and Trademarks
Washington D.C. 20231

on May 25th, 1984

Sandra Edelman

Sandra Edelman, Esq.